

ORDINANCE NO: 640

AN ORDINANCE PERMITTING AND REGULATING THE SALE OF SECONDHAND, USED OR SURPLUS PERSONAL PROPERTY WITHIN THE CITY OF WILLAMINA; PROVIDING DEFINITIONS FOR CLARITY; AND PROVIDING PENALTIES FOR VIOLATION OF THE ORDINANCE

Recitals:

WHEREAS, there are at times perpetual, prolonged and extended yard sales on residential premises, and

WHEREAS, these sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, and

WHEREAS, the perpetual, prolonged and extended yard sales create noise, traffic congestion, unsightly signage, and other nuisance in residential areas and often violate the zoning ordinances of the City of Willamina, and

WHEREAS, the perpetual, prolonged and extended yard sales are not in keeping with the character of the residential areas, and

WHEREAS, the City Council does not wish to prohibit yard sales but has identified the need to limit, regulate, restrict and control yard sales, and

WHEREAS, the rules and regulations are designed to control and restrict yard sales in order to protect the public health, safety, and welfare of the citizens of the City of Willamina;

NOW THEREFORE, THE CITY OF WILLAMINA DOES ORDAIN AS FOLLOWS:

Section 1. Purpose.

The City Council finds that perpetual, prolonged and extended yard sales in residential areas, if continued indefinitely, tend to become retail businesses in residential areas and zones, create noise, traffic congestion, unsightly signage, and other nuisances and often violate the zoning regulations of the City. The rules and regulations are designed to control and restrict yard sales in order to protect the public health, safety and convenience of the citizens of Willamina and to restrict sales to casual or occasional occurrences only, in keeping with the character of the residential neighborhoods. The City Council finds a need to limit, regulate, restrict and control yard sales.

Section 2. Definitions

Yard Sale shall mean and include all general sales, open to the public, conducted from or on a residential premise in all zoning districts, or on vacant lots or other unused real property, for the purpose of disposing of personal property including, but not limited to all sales entitled “garage”,

“lawn”, “yard”, “attic”, “porch”, “room”, “backyard”, “patio”, “moving”, “flea market”, “estate”, or “rummage” sale. This definition shall not include a situation where no more than five (5) specific items are offered for sale, all advertisement of such sale specifically names these items to be sold and the items are not publicly displayed for sale.

Personal Property shall mean property which is owned, utilized and maintained by an individual or members of a residence or acquired in the normal course of living in or maintaining a residence, such as, but not limited to, household items, clothing, tools, toys, recreation equipment or other used or secondhand items normally found in and about the home and advertised to the public. It does not include merchandise which was purchased for resale or obtained on consignment.

Person shall mean any natural person or persons, association, partnership, firm corporation or other entity.

Section 3. Authorization.

Yard Sales are permitted within the municipal limits of the City of Willamina under certain terms and conditions as herein set forth. It shall be unlawful for any individual to sell or offer for sale, under authority granted by this Ordinance, property other than personal property.

Section 4. Conditions of Conducting the Sale.

- (a) A property location may not be utilized for a yard sale more than four times in a calendar year. The property location shall be identified as the post office street address assigned thereto and shall include the dwelling or any part thereof, yard, open field, barn, accessory building and parking area.
- (b) A sale may be conducted by a single person, multiple persons, churches, social, civic or charitable organizations. All items to be sold must originate as the legal property of the applicant, other persons participating in the sale or members of the organizations. Goods must be surplus to the needs of the owner and shall not include any items purchased for resale at the yard sale.
- (c) A yard sale shall be limited to three consecutive days of operation and shall be conducted during hours no earlier than 8 A.M. and no later than 7 P.M.
- (d) No merchandise shall be placed upon public rights-of-way, including streets and sidewalks. All merchandise must be displayed a sufficient distance from public roadways in order to avoid obstruction of view or traffic hazards.
- (e) All unsold yard sale merchandise remaining on the permitted site at the conclusion of the sale must be removed therefrom immediately. Merchandise sold to purchasers must be removed from the permitted sale site within 24 hours of the conclusion of the sale.

Section 5. Dangerous Conditions.

The property owner or person conducting the yard sale must assume responsibility for parking. Automobiles or pedestrians may not be allowed to impede traffic on any adjoining roads. If traffic on any road is impeded or a dangerous condition develops on any road, law enforcement officials or city officials may immediately close the sale for the balance of that day.

Section 6. Advertising of Yard Sales.

A yard sale may be advertised to the public by means of newspapers, radio, television, cablevision, handbills and signs. In the event an applicant chooses to advertise a permitted yard sale by means of signage or handbills, the following restrictions shall apply:

- (a) Directional Signs. Signs not more than four (4) square feet in size are permitted provided they are placed in accordance with the provisions of Section (c) below, and do not obstruct the clear vision of drivers (see Section (d) \below).
- (b) Address & Date(s) of Sale Required. All signs shall contain the street address of the sale and the date(s) on which the sale is to be conducted.
- (c) Placement of Signs. No signs shall be attached to any utility poles, street signs, or traffic control signs, or placed on sidewalks. No signs shall be placed in the right of way along Hwy 18 without the permission of ODOT.
- (d) Clear Vision Area. No sign placed in the ground shall exceed 30" in height including stakes or other material used for placement of signs and any embellishments including, but not limited to, balloons.
- (e) Time Limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence.
- (f) Removal of Signs. Signs shall be removed no later than 9:00 am on the morning following the end of the sale.

Section 7. Exceptions.

With the exception of the provisions of Section 6 above, this ordinance shall not apply to or affect the following persons or sales:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- (b) Persons selling or advertising for sale an item of personal property which is specifically named or described in the advertisement and which separate items do not exceed five in number.
- (c) Persons moving and relocating outside the City of Willamina, provided that such sale is limited to one week and is conducted no earlier than one month prior to departure.
- (d) Any bona fide charitable, eleemosynary, educational, cultural, service club or governmental institution or organization when the proceeds from the sale are used directly for the institution or the organization's charitable purposes and the goods or articles are not sold on a consignment basis.

Section 8. Penalty.

A person violating any of the provisions of this ordinance shall:

- (a) Upon the first conviction thereof, be punishable by a fine not to exceed the sum of "one hundred eighty dollars (\$180.00)";
- (b) Upon the second conviction thereof, be punishable by a fine not to exceed the sum of "three hundred sixty dollars (\$360.00)";
- (c) Upon the third or further conviction thereof, be punishable by a fine not to exceed the sum of "seven hundred twenty dollars (\$720.00)".

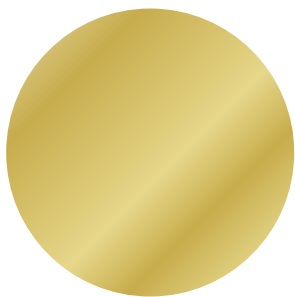
Section 9. Severability. If any term or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, such term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining terms and provisions hereof, and this Ordinance shall be construed as if such invalid or unenforceable term or provision had not been contained herein.

Section 10. This Ordinance shall take effect 30 days after passage by the City Council and approval by the Mayor.

PASSED BY THE COUNCIL OF THE CITY OF WILLAMINA this 11th day of November, 2010, by the following vote:

YEAS	<u>Baller, Bramall, Long, Skyberg, Toney</u>
NAYS	<u>None</u>
ABSTAIN	<u>None</u>
ABSENT	<u>Saunders</u>

APPROVED BY THE MAYOR this 12th day of November, 2010.



Vernon Mosser, Mayor

ATTEST:

Sue C Hollis, City Recorder